

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

AMANDA BOSARGE, individually and on
behalf of their minor children, et al.,

Plaintiffs,

-against-

DANIEL P. EDNEY, in his official capacity as
the State Health Officer, et al.,

Defendants.

Civil Action No. 1:22-cv-00233-
HSO-BWR

**PLAINTIFFS' OPPOSITION TO DEFENDANT ARCHIE MITCHELL'S MOTION FOR
EXTENSION OF TIME**

Plaintiffs, Amanda Bosarge, Jaquelyn Butler, Kimberly Harrell, William Morgan, Paul Perkins, Brandi Renfroe, and Jeana Stanley (“**Plaintiffs**”), by and through counsel, hereby file their opposition to Defendant Archie Mitchell’s (“**Defendant**”) *Motion for Extension of Time*. (Dkt. # 48.)

1. Plaintiffs request that they be relieved from the requirement of submitting a separate memorandum brief as this response is self-contained, does not require further analysis or citation, and is consistent with the Federal Rules of Civil Procedure.

2. Because constitutional violations are alleged, and because Plaintiffs are presently suffering irreparable harm, they filed a *Motion for a Preliminary Injunction*. (Dkt. # 3). Plaintiffs nonetheless granted numerous extensions of time in this litigation to various defendants because Plaintiffs believed that a solution that did not involve protracted litigation was possible. Unfortunately, it eventually became clear that a litigated solution must be pursued.

3. Defendant has been on notice of this lawsuit since September 7, 2022 and has thus known about this lawsuit for over two and half months. *See* (Dkt. # 13).

4. While Defendant was served with at least some of the papers in this action on September 7, 2022, because there was a lack of clarity as to whether Defendant initially had been served with all required papers under Rule 4 of the Federal Rules of Civil Procedure, Defendant was re-served with all papers on November 4, 2022. *See* (Dkt. #31).

5. Under both the September 7, 2022 and November 4, 2022 service dates, Defendant's response to the Complaint (Dkt. #1) is past due. Similarly, Defendant's response to the *Motion for a Preliminary Injunction* (Dkt. # 3) is past due and his response to the *Motion for Summary Judgment* (Dkt. # 4) is past due.

6. Despite Defendant being on notice of this lawsuit since September 7, 2022 (Dkt. # 13), undersigned counsel was only contacted by Defendant's counsel on November 28, 2022, the day Defendant's answer to the complaint was due. Defendant's counsel requested a thirty-day extension to respond to the complaint. It was unclear whether Defendant was also requesting an extension to file opposition briefs. Regardless, as of the date of Defendant's requested extension, Defendant's responses to Plaintiffs' motions for injunctive relief and summary judgment were already past due.

7. As a briefing schedule had already been entered for these motions, undersigned counsel advised Defendant's counsel that the requested extension would prejudice Plaintiffs. Defendant also offered no reason for waiting over two and half months to contact Plaintiffs' counsel. Plaintiffs' counsel, therefore, for the substantive reason of avoiding prejudice in delaying adjudication of the pending motions, advised that Plaintiffs would oppose the requested extension. Nonetheless, Plaintiffs' counsel offered to enter into the same agreed upon order that various other

state officials entered into in this action permitting them to sit on the sidelines. *See, e.g.*, (Dkt. #37 and Dkt. # 38). Defendant declined to enter into such an order.

8. Because Plaintiffs would be prejudiced if an extension is granted to Defendant, especially regarding the pending *Motion for a Preliminary Injunction* (Dkt. #3), which will be otherwise fully briefed on December 5, 2022, Plaintiffs oppose Defendant's Motion for an Extension of Time.

9. Accordingly, Plaintiffs respectfully request that Defendant's Motion for Extension be denied.

Dated: December 1, 2022.

Respectfully submitted,

SIRI & GLIMSTAD LLP

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